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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,991	06/20/2001	Bruce H. Levin	10527/11	5652

23838 7590 07/11/2003

KENYON & KENYON  
1500 K STREET, N.W., SUITE 700  
WASHINGTON, DC 20005

EXAMINER

SCHOPFER, KENNETH G

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 07/11/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/883,991	LEVIN, BRUCE H.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Kenneth G Schopfer	3739	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 April 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-59, 61, 62 and 64-71 is/are pending in the application.
- 4a) Of the above claim(s) 1-48, 64 and 65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 49-59, 61, 62 and 66-71 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
       Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
       If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
       1. ☐ Certified copies of the priority documents have been received.  
       2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
       3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
       \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 49-59, 61, 62, and 66-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Momich et al. (USPN 6335907) in view of Babb (USPN 6262692).

3. Referring to claims 49-55, 59, 61, and 68, Momich et al. teach all of the limitations of these claims except for the label including an RFID. Momich et al. teach a flexible medical label including an integrated circuit 14 that uniquely identifies a medical product to which it is attached (figure 15). The medical product could be a pharmaceutical container, e.g. a bottle, or a blood product. The integrated circuit contains logistically relevant data such as logistical information including medication verification and dosage time (see abstract). Babb teaches an RFID label with an IC chip where the label includes a memory storing the RFID and an RF signal provides power to the IC chip. It would have been obvious to one of ordinary skill in the art at the time of invention that the device of Momich et al. could have included an RFID as in the label of Babb as a suitable means for data transfer and identification of the label.

4. Referring to claim 56, Momich et al. and Babb teach all of the limitations of this claim as described above except for the label being temperature resistant. It would have been obvious to one of ordinary skill in the art at the time of invention to make the label of Momich et al. and

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Babb temperature resistant in order to ensure that the integrated circuit is not damaged by changes in temperature.

5. Referring to claim 57, Momich et al. and Babb teach all of the limitations of this claim as described above except for the label being water resistant. It would have been obvious to one of ordinary skill in the art at the time of invention to make the label of Momich et al. and Babb water resistant in order to ensure that the integrated circuit is not damaged by water.

6. Referring to claim 58, Momich et al. and Babb teach all of the limitations of this claim as described above except for the label being shock resistant. It would have been obvious to one of ordinary skill in the art at the time of invention to make the label of Momich et al. and Babb shock resistant in order to ensure that any shocking forces do not damage the integrated circuit.

7. Referring to claim 62, Momich et al. and Babb teach all of the limitations of this claim as described above except for the blood product container including the label. It would have been obvious to one of ordinary skill in the art at the time of invention that a blood product container could use a label as in Momich et al. and Babb to include relevant data about the container and its contents.

8. Referring to claim 66 and 67, Momich et al. and Babb teach all of the limitations of these claims as described above except for the IC including an analog front end and a controller coupled to the analog front end. Momich et al. and Babb do not specifically state that the IC chip includes an analog front end and a controller coupled to the memory storing the RFID. However, it would have been obvious to one of ordinary skill in the art at the time of invention that the circuit of the combined device of Momich et al. and Babb could include an analog front end and a controller coupled to the memory in order to effectively transmit and receive data

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between the RF signal supplied by an RFID reader/writer used with the device. Further, it would have been obvious to one of ordinary skill in the art at the time of invention that the IC could include an LC in the analog front end.

9. Referring to claims 69-71, Momich et al. and Babb teach all of the limitations of these claims as described above except for the use of a sensor system in an ID bracelet for a medical chart. It would have been obvious to one of ordinary skill in the art at the time of invention that the combined device of Momich et al. and Babb could have been used to notify a sensor system associated with a patient of the compatibility of the labeled device with the patient. Further, it would have been obvious to one of ordinary skill in the art at the time of invention that the sensor system could be associated with the patient's ID bracelet or medical chart to ensure that the patient and labels were correctly identified.

***Response to Arguments***

10. Applicant's arguments with respect to claims 49-59, 61, 62, and 66-71 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period


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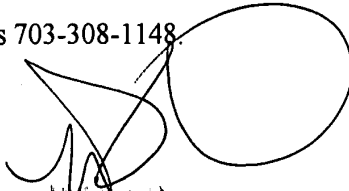
will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth G Schopfer whose telephone number is 703-305-2649. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 703-308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
KS  
July 3, 2003

  
LINDA C. M. DVORAK  
SUPERVISORY PATENT EXAMINER  
GROUP 3700